

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

UNITED STATES OF AMERICA,

Plaintiff,

v.

PIROUZ SEDAGHATY, et al.,

Defendants.

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No. 05-60008-2-HO

September 11, 2007

Eugene, Oregon

TRANSCRIPT OF PROCEEDINGS

BEFORE THE HONORABLE MICHAEL R. HOGAN

UNITED STATES DISTRICT COURT JUDGE

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APPEARANCES OF COUNSEL

FOR THE PLAINTIFF:

CHRISTOPHER L. CARDANI

United States Attorney's Office

405 E. 8th Avenue

Suite 2400

Eugene, OR 97401

(541) 465-6771

Chris.cardani@usdoj.gov

FOR THE DEFENDANT:

LAWRENCE H. MATASAR

Lawrence Matasar, P.C.

621 S.W. Morrison Street

Suite 1025

Portland, OR 97205

(503) 222-9830

Larry@pdxlaw.com

COURT REPORTER:

Deborah Wilhelm, CSR, RPR

P.O. Box 1504

Eugene, OR 97440

(541) 431-4113

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1 (Tuesday, September 11, 2007; 11:18 p.m.)

2 P R O C E E D I N G S

3 THE CLERK: This is the time set for Criminal
4 No. 05-60008-2-HO, USA versus Pirouz Sedaghaty,
5 government's appeal of release order.

6 THE COURT: Good morning.

7 MR. CARDANI: Good morning, Judge Hogan. First
8 of all, thank you for seeing us on such short notice.

9 With me, to my right, is Colleen Anderson, a
10 special agent with IRS; and Dave Carroll, special agent
11 with the FBI.

12 THE COURT: Uh-huh.

13 MR. CARDANI: This is a fairly extraordinary
14 appeal. First time I've appealed a detention decision
15 in my 15 years. Judge Coffin gave very thoughtful
16 consideration to extensive testimony in this case that
17 was almost a full day of testimony in the case.

18 Ultimately, as the court is aware, Judge Coffin
19 found that although Mr. Seda produces -- presents
20 somewhat of a flight risk, he did not find any evidence
21 of danger to the community. And he found that
22 conditions could be fashioned which would likely result
23 in Mr. Seda's presence at trial.

24 We respectfully disagree on both fronts with
25 those. And in terms of presentation, I filed a hasty

1 notice of appeal, given that this just happened
2 yesterday afternoon.

3 I think the clerk's record indicates that
4 Number 28 is the government's memorandum in support of
5 pretrial detention. It's a document that I filed with
6 Judge Coffin --

7 THE COURT: I'm going to just interrupt you a
8 second. I'm sorry. I should have done this before. I
9 should probably tell you what I've reviewed. I did some
10 reading last night. All right?

11 I have the government's memorandum in support
12 of pretrial detention. I have -- that is dated a while
13 ago, I would say, if I could find a date here. It has
14 the exhibits on it, various exhibits, there are photos
15 and other things. Let me see if I can find a date on
16 it. 21 August '07, 18 pages plus exhibits. I have
17 Mr. Matasar's letter dated September 7, '07, five pages.
18 And this morning -- I have a -- Ms. Brown came to see me
19 yesterday after Judge Coffin's ruling. And I asked her
20 for a little one-page memo, which she gave me. And then
21 she gave me other notes, copies of passports, that sort
22 of thing. All right?

23 MR. MATASAR: Your Honor, the defense had also
24 submitted a memorandum to the court.

25 THE COURT: Okay.

1 MR. MATASAR: Which was shortly after
2 Mr. Cardani's, with exhibits.

3 THE COURT: I do not have it. It's probably in
4 the file. I asked for the material. This is what I was
5 given. So your last letter is the one I read.

6 MR. MATASAR: Okay. And that's somewhat
7 comprehensive, but I also filed a memo with some
8 important exhibits that are maybe referred to in my
9 letter. So that also should be considered before a
10 decision, perhaps.

11 THE COURT: I'm sorry to interrupt you, but I
12 think you fellows needed to know.

13 MR. MATASAR: We appreciate it.

14 MR. CARDANI: That's helpful, Your Honor. The
15 government believes that there are two prongs justifying
16 the defendant's pretrial detention. One is danger to
17 the community.

18 The main arguments supporting that are really
19 set forth in the document that the court has,
20 apparently, reviewed, Number 28.

21 That, at the detention hearing, was
22 supplemented by testimony from a percipient witness
23 named Daveed Gartenstein-Ross, who actually worked with
24 the defendant. He testified about his observations and
25 comings and goings down there in -- for al-Haramain for

1 about a year. He testified at some length.

2 And, also, we had an international terrorism
3 consultant testify by phone. And Special Agent Anderson
4 testified.

5 In terms of procedure, I am at a little bit of
6 a loss at how the court wants to proceed. It seems like
7 there are three options.

8 We can go on what's before the court presently.
9 And given the time for today, I think that's what we
10 have to do. Since the de novo hearing, we ordered a
11 copy of the transcript of the hearing. And I didn't
12 order it on an expedited basis. I ordered it after the
13 hearing not knowing what Judge Coffin was going to do.
14 Kristi Anderson informed me that it's going to be
15 completed probably the week of September 20th unless
16 somebody orders it on an expedited basis. That has not
17 been done yet. If it is done, I'm not sure how much
18 longer she will need to get that done. But if the court
19 is interested in reviewing transcripts of that
20 testimony, that's something that the court can obviously
21 consider.

22 And then the third option would be if the court
23 is interested in it, we're willing to fly the witnesses
24 back here -- I'm sorry, the one witness who testified
25 from the East Coast, to testify, and put Mr. Kohlmann

1 back on the phone or bring him out here, and we have
2 Special Agent Anderson. So I think those really are the
3 three alternatives.

4 One thing I'm concerned about, though, is
5 before we get too far into this is that Judge Coffin's
6 conditions are set to go into effect probably on Friday.
7 And I asked for a stay so that we could do this appeal.
8 That wasn't granted because it was -- he felt it was
9 somewhat moot, I believe, by logistics. So if there is
10 any delay after today, then the government will be
11 requesting a stay of Judge Coffin's -- the government
12 does request a stay of that order.

13 Now --

14 MR. MATASAR: I thought you were done. Sorry.

15 MR. CARDANI: So, Judge, I -- in terms of the
16 dangerousness, we presented extensive evidence that
17 Mr. Seda, before he departed the United States, during
18 the middle of the criminal investigation that he knew he
19 was the subject of, ran the al-Haramain Islamic
20 Foundation, the U.S. branch of al-Haramain. And it was
21 headquartered in Ashland, Oregon.

22 He took money from al-Haramain's parent
23 organization in Riyadh, Saudi Arabia, and with that, we
24 submit, came certain obligations, and that was to spread
25 a real strident, virulent, hateful form of radical Islam

1 called Wahhabi, and an extreme form of Wahhabi Islam at
2 that.

3 And all parties are uncomfortable in discussing
4 religious beliefs and using that against the defendant.
5 I certainly am. Judge Coffin was. But it is,
6 unfortunately, part of these proceedings.

7 Mr. Seda was the supervisor of a project
8 through al-Haramain called the Prisoner Project, and
9 distributed incredibly hateful material that's excerpted
10 in the government's memo to U.S. prisoners by the
11 thousands. It contained a thing called Noble Qur'an,
12 which is a translation of the Qur'an, but it contained
13 from al-Haramain an appendix, number 4, called the Call
14 to Jihad. And it has nothing to do with the Qur'an. It
15 is someone's interpretation, recent interpretation, of
16 Qur'anic passages that exhort violence, basically making
17 it obligatory for people following this version of the
18 faith to commit acts of violence to promote the religion
19 against infidels, nonbelievers, Jews, and the like. And
20 that stuff is in here, and was extrapolated by some of
21 the witness testimony.

22 In addition to that, we have a letter from one
23 of the prisoners who responded to that. A letter was
24 found during the search warrant at this prayer house in
25 Ashland a while back. One of the prisoners responded by

1 basically saying here is \$10 in support -- thank you for
2 the literature, thank you for the materials you sent me.
3 Here is \$10 for the mujahideen. You can use it to pay
4 for the families of the martyrs, or weapons, or however
5 you like. And I think that's indicative of the type of
6 project that Mr. Seda was running that the witness,
7 Mr. Gartenstein-Ross, was actually doing for him when he
8 was working down there. He was sending all this
9 material into the prisons. It was a recruitment device,
10 for what is largely unknown, but spreading the type of
11 material that's excerpted in the brief.

12 What Mr. Seda also did while he was here
13 controlling the U.S. branch of the al-Haramain Islamic
14 Foundation was he was tasked by the parent organization
15 to get an Internet service provider up and running in
16 the United States, taking advantage of our technology,
17 taking advantage of the fact that it's not heavily
18 scrutinized by government, unlike places like Saudi
19 Arabia.

20 And this was -- testimony was received, and
21 it's in the brief as well, that this was used as a
22 platform by an extremely violent religious figure that's
23 been praised by Osama bin Laden. And this individual
24 used this ISP that Mr. Seda helped get up and running in
25 Ashland, Oregon, to promote his ideas.

1 Later -- later some hard drives were found, and
2 testimony was received before Judge Coffin that a very
3 troubling e-mail that's in the government's brief was
4 found in an e-mail server that was physically located at
5 one time in Ashland, Oregon. And that e-mail talked
6 about the bombing in Afghanistan which had occurred, I
7 think, three days earlier.

8 And while it was a statement on behalf of Osama
9 bin Laden, we didn't offer it that it is something that
10 he personally wrote, but it was distributed by the Osama
11 bin Laden Brigade, which is a real organization. It --
12 somewhat based in Saudi Arabia. The e-mail was tracked
13 back to being distributed from Saudi Arabia. And it
14 talks about, again, anti-Western statements, the bombing
15 of Afghanistan, and it's a sad day when an Islamic
16 nation lets forces engage in these types of activities,
17 three days after the bombing in Afghanistan occurs after
18 the attacks of September 11th.

19 We also mentioned in the brief that one of the
20 other things that Mr. Seda was big on while he was here,
21 before he fled, was promoting the acts of mujahideen
22 throughout world. And these are people who commit acts
23 of violence to promote their version of Islam. And the
24 witness testimony extrapolated on this as well that
25 Mr. Seda was very much in favor of mujahideen causes

1 throughout the world. And, in fact, tried to raise
2 money for them in Ashland, Oregon. Approached a
3 witness, showed him a video of mujahideen engaged in
4 acts of combat overseas, and praised, in essence, the
5 acts of mujahideen and made statements in support, and
6 also tried to fund-raise, and did, to some degree, fund-
7 raise.

8 We have evidence in the government's brief of a
9 \$2,000 or so wire transfer by Mr. Seda from al-Haramain
10 Islamic Foundation in Oregon to Albania, to the
11 al-Haramain office in Albania. Testimony at the
12 detention hearing showed that that was the closest, at
13 the time, al-Haramain active office to the fighting in
14 Kosovo, with evolving mujahideen, with the likely
15 inference that this money was destined for support of
16 the mujahideen.

17 The charges in the indictment, while somewhat
18 regulatory, Your Honor, do involve money laundering and
19 tax fraud allegations. And the essence -- the gravamen
20 of the charges are that Mr. Seda knowingly conspired
21 with an individual named Soliman al-Buthe, who is a
22 Saudi national, who is under indictment, who is a
23 fugitive, conspired with Mr. al-Buthe to, in essence,
24 money launder -- launder \$150,000.

25 The transaction is bizarre, but it goes

1 something like this: The donor in Egypt sent money to
2 the al-Haramain Islamic Foundation organization, was
3 headquartered in Riyadh, Saudi Arabia, offices
4 throughout the world. Instead of wire transferring the
5 money directly to Saudi Arabia, he transferred \$150,000
6 from a bank account in London, Bank of Kuwait, to
7 Ashland, Oregon, and to a bank account that was
8 controlled by Mr. Seda, this defendant, and Soliman
9 al-Buthe.

10 Shortly after the transaction -- and the money
11 was for Chechnya. And the detention hearing discussed
12 that there was an active war, really, involving Russian
13 soldiers and mujahideen in Chechnya to this day,
14 atrocities have been committed, probably by both sides,
15 but there was a school massacre in Beslan involving the
16 deaths of many children. A commander of the Chechnyan
17 army took responsibility for that. Images -- several
18 images of him were found in Mr. Seda's computers in
19 Oregon. Some of those have been attached as photos.
20 Testimony indicated that these were the commanders,
21 before they were killed themselves, who were promoting
22 the jihad in Chechnya.

23 But back to our transaction. This Egyptian
24 donor wanted to send \$150,000 to al-Haramain for
25 Chechnya, whether it be refugees or direct support of

1 the mujahideen, unclear, but the transaction is very
2 clear. It went from, as I said, London to Oregon to a
3 bank account controlled by him and Mr. al-Buthe.

4 Mr. al-Buthe gets on a plane, and from Riyadh,
5 Saudi Arabia, flies halfway around the world, spending
6 about \$10,000, gets to Ashland, Oregon, goes to the bank
7 with Mr. Seda, and takes that money out of the bank.
8 And withdraws it in the form of 130 one-thousand dollar
9 American Express checks.

10 So Mr. al-Buthe had to sign his name 130 times
11 in the bank with Mr. Seda to get those travelers'
12 checks. And he also requested and obtained a \$20,000 or
13 so check directly to him, perhaps a finder's fee for
14 Mr. al-Buthe, it's unclear.

15 But Mr. al-Buthe then flew directly home to
16 Saudi Arabia with that cash -- with the travelers'
17 checks in his pocket. He failed to file a form required
18 when one is couriering (sic) more than \$10,000 out of
19 the country. They have to file a form going out or
20 coming in. Mr. al-Buthe had filed several of these
21 forms on prior occasions when transporting over \$700,000
22 in cash into the United States. He did not file the one
23 going out on this particular transaction.

24 We believe that was to prevent the government
25 from learning about this money, its odd nature.

1 Mr. al-Buthe gets back to Saudi Arabia, cashes
2 those travelers' checks for a fee of about \$1300,
3 further deleting the value of that money at the Al Rajhi
4 Bank in Riyadh, Saudi Arabia.

5 Mr. Seda and Mr. al-Buthe are charged with
6 conspiring to defraud the United States in this
7 indictment by preventing the government from learning
8 about this transaction, and affirmatively
9 mischaracterizing it in a tax return filed with the IRS
10 to maintain a charity status, and al-Haramain did, at
11 the time, have religious, tax-free status.

12 They have to file returns with the IRS saying
13 what money it got in, and what it did with it. And
14 charities can do lots of things, but it has to be
15 charitable in nature. One cannot be sending -- a
16 charity cannot be sending money to commit acts of
17 violence anywhere in the world.

18 And so the allegations in the indictment is
19 that they intended to do just that, and attempted to
20 pull the wool over the government's eyes by not filling
21 out the forms, and also mischaracterizing, in the tax
22 return, what happened with that money. And it stated
23 that a building was purchased in Missouri, I believe,
24 rather than its true nature.

25 The nature of the al-Haramain Islamic

1 Foundation is very troubling. I won't belabor that.
2 It's in the government's brief, but over, I think, about
3 15 of its branches around the world have been directly
4 associated with acts of international terrorism, some of
5 which were directly committed against Western interests,
6 including the bombings of the U.S. embassies in Kenya
7 and Tanzania in, I believe, 1998. Al-Haramain was
8 directly associated with that. And its branches in that
9 part of the world, in east Africa, were designated
10 global terrorist organizations by not only the United
11 States, Judge, but by the United Nations, which has its
12 own sanctioning mechanism.

13 Soliman al-Buthe, the codefendant in this case,
14 has been designated by the United States and, I believe,
15 by the United Nations, also as a global terrorist. The
16 implications from that is you can't engage in financial
17 transactions with people like this as part of the
18 sanctioning mechanisms of the United States and of the
19 United Nations.

20 The United States' office of al-Haramain was
21 designated a while back, 2004 was the initial
22 designation, and it was some time after that the final
23 designation, by the Department of Treasury as a global
24 terrorist organization.

25 Mr. Seda has not been labeled as such, but the

1 business he ran, the charity that he ran in Ashland,
2 Oregon, has been so designated by the United States and
3 by the United Nations. And effectively shut down,
4 although it's open in -- it's still an active Oregon
5 corporation today.

6 So what we believe that we have been able to
7 prove, Judge, is that when he was here running this
8 outfit, it was doing bad things. And because he's
9 taking money from the headquarters, the parent
10 organization, he was doing what they asked him to do.
11 We never alleged, nor do we allege, that he's the type
12 of individual who is going to strap on a bomb and go
13 blow something up. We don't consider him that kind of
14 direct danger. Rather, what we consider him to be is
15 someone who will take money to support the causes of
16 extreme Wahhabists that are trying to promote their
17 causes throughout the world, perhaps here in the United
18 States as well.

19 He took money from them before. He did the
20 acts that I alleged and I talked about earlier. And
21 especially when I get into the flight evidence and the
22 lack of financial information that we've gotten from the
23 defendant on the last four-and-a-half years of his life,
24 I'll talk about that in a minute, when you put those two
25 things together, it adds up to what we believe to be a

1 danger to the community.

2 And as I said, not a physical danger, but the
3 type of danger where he will resume his activities, and
4 taking money, resources, logistical support from people
5 that are bent on these type of extreme designs.

6 Now, Judge, as the hearing and the -- the
7 detention hearings, I should say, progress, when
8 Mr. Seda voluntarily returned to the United States, and
9 I think that that was Judge Coffin's overwhelming basis
10 for his ruling, is that, yes, there is evidence that
11 he's a flight risk, but he turned himself in, and that
12 is what it is. He did surrender. Mr. Matasar called me
13 and said, words to the effect, Mr. Seda is coming back.
14 Here is the day he's coming back. And we had an agent
15 in Portland. And he was arrested on August 15th.

16 International efforts to apprehend him were
17 stood down. He was not arrested overseas because we
18 affirmatively stood down the international efforts.

19 THE COURT: Sorry, I have really sensitive
20 microphones up here.

21 MR. CARDANI: We stood down the efforts to
22 arrest him internationally, Judge. So -- but it is true
23 he did surrender. He was taken into custody on
24 August 15th, came right down here, and we were off and
25 running on the detention. Judge, it's been about three

1 weeks, over three weeks, I believe, that he's been in
2 detention. And I think that it's a fair statement to
3 say that the primary reason he's been in custody so long
4 is because Pretrial Services is recommending that he be
5 detained. It was their recommendation at the beginning
6 of this, as we went through the hearings, and to the
7 best of my knowledge, it continues to be their
8 recommendation today --

9 MR. MATASAR: And, Your Honor, if I may be
10 heard, Ms. Brown, I believe, told both me and
11 Mr. Cardani yesterday that she was not making a
12 recommendation.

13 THE COURT: Well, I'll tell you what her
14 recommendation is after a while. I know it.

15 MR. MATASAR: Okay.

16 MR. CARDANI: Okay.

17 THE COURT: Okay.

18 MR. CARDANI: And -- but what troubles, I
19 believe, Ms. Brown is that she has made several
20 attempts, aggressive attempts, to get basic
21 identification information, financial information, and
22 things of the like from Mr. Seda. And that's not just
23 because of the nature of this case. It's as it would
24 be, as this court knows from its days as a magistrate
25 judge, in any bail consideration from someone who has

1 been indicted, arrest warrant issued, and somebody who
2 has been absent for four-and-a-half years from the
3 country, two-and-a-half of which he was an international
4 fugitive. And he knew about the indictment, Judge. He
5 knew about the arrest warrant two-and-a-half years ago
6 when it came to pass. It was a public indictment. So
7 he was an intentional international fugitive for
8 two-and-a-half years.

9 When somebody like that returns, regardless of
10 the charges, regardless of the background of the case,
11 Pretrial Services is charged with getting basic
12 information. Where did you live? Who were the contacts
13 that I can have to verify this? E-mail, phone, whatever
14 you can give me. How did you support yourself? How did
15 you pay for rent? Did you buy a house? How did you pay
16 for your subsistence? Who did you work for? What did
17 you do? Who are the contacts that I can use to verify
18 that as well?

19 Now, to the best of my knowledge, and we've
20 only gotten limited information from Pretrial, because
21 there have been some objections from Mr. Matasar on how
22 deep the government can get into this, but we asked for
23 information to Judge Coffin, we have asked for access to
24 any information that he's been given so that we can task
25 our overseas offices of the FBI to try to help the court

1 determine whether it's getting accurate information.

2 The only information we got, by and large, was
3 of a very general nature. Mr. Seda was asked for, I
4 think by Ms. Brown, right from day one, where have you
5 lived? And this has been an ongoing inquiry. And I
6 think it was yesterday that for the first time that
7 Mr. Seda, through Mr. Matasar, offered an outline of
8 where he lived for the last four-and-a-half years. We
9 were provided a copy of that yesterday. I have looked
10 at it. It is vague. It contains no hard addresses. It
11 contains no contact information on anybody that would be
12 able to verify that.

13 THE COURT: I know you're a long ways away, but
14 does that look like what you are talking about?

15 MR. MATASAR: Yes.

16 MR. CARDANI: Yes.

17 MR. MATASAR: There were also interviews.
18 Mr. Seda and I spoke well over an hour, and gave almost
19 identical information verbally, but that's a more
20 organized fashion, but, yes, that's correct.

21 THE COURT: Sure.

22 MR. CARDANI: But the point, Judge, is that it
23 took quite a while pulling teeth just to get that. And
24 what that is is not very good. It lacks details. It
25 lacks -- if someone like Ms. Brown, or even the

1 government agents, wanted to verify that, it's like
2 reading a MapQuest, you go to this place, and you take a
3 left, and you look for this alley. It's not very
4 descriptive.

5 And, you know, I think a larger point on this,
6 Judge, is that that doesn't answer the inquiry. The
7 inquiry is not just where you lived, it's how did you
8 pay for it? He moved around a lot. How did he pay for
9 all of this?

10 And I'll get to the passports in a minute, but
11 we know Mr. Seda has traveled extensively, largely
12 throughout the Arab world, in the last four-and-a-half
13 years, extensively. He had to turn in a passport
14 because it was out of room for stamps at one point. How
15 did Mr. Seda pay for these travels? What was the
16 purpose of these travels? I think that those are
17 unanswered questions, unless there is information that's
18 been given to the court that I'm unaware of.

19 Do you have bank accounts? Did you have bank
20 accounts there? Do you have bank accounts here? The
21 financial information is, I think, the glaring omission.
22 And this is, I think, in part what drove Ms. Brown's at
23 least initial detention recommendation, and I believe
24 current detention recommendation, is that we don't have
25 anywhere near enough information. The court doesn't.

1 And the government would like to attempt to corroborate
2 this information to the extent that it's there, so that
3 we can determine exactly what he was doing during this
4 four-and-a-half year absence.

5 The passports, another troubling evolution,
6 Mr. Seda was -- when he was arrested on August 15th had
7 the United States passport in his possession that he
8 traveled on. And that's the one that made its way into
9 evidence at the initial hearing. We knew from some
10 early conversations that Mr. Seda claimed to have
11 traveled and residence (sic) in Iran and Syria, yet
12 there were no stamps on the passport indicating travel
13 to those countries, a troubling issue. We raised that
14 as an issue at the first hearing.

15 What we then got from -- Mr. Matasar gave to
16 the court was a -- and it didn't come up until the
17 detention hearing, was somebody gave him a copy of an
18 Iranian passport that we saw for the first time. And I
19 have a color copy here if the court wishes to look at
20 it. But there is some troubling aspects to this.

21 First, the photo, Mr. Seda, his U.S.
22 passport -- well, before I get to that. We learned
23 recently, and this is part of the evolution, that there
24 was a fourth passport, an old U.S. passport, which we
25 now have, a new U.S. passport, which we have, and then

1 we found out about an old Iranian passport that was
2 canceled in 2006. So here you have Mr. Seda fleeing --
3 or leaving the country, becoming an international
4 fugitive, certainly by the time of the indictment in
5 2005, and he goes and gets an Iranian passport. He
6 cancels his current Iranian passport, which I have here.
7 And this was good until 2009. I don't know why he
8 needed a new Iranian passport. It's got plenty of room
9 left for stamps. There are empty pages. And it seems
10 as though it was an otherwise valid Iranian passport.

11 What we got to the court eventually was a 2006
12 issued passport in the name of Pirouz Sedaghaty. What's
13 really interesting and I think troubling about this is
14 that the spelling of his last name is slightly
15 different. The date of birth is different. And most
16 remarkably, the picture -- if one -- I'm not an expert
17 in this, but if you put the picture side by side, I'd
18 like to tender the color copies to the court, it does
19 not even appear to be, to the naked eye, to be
20 Mr. Sedaghaty. I believe Mr. Matasar has seen this.

21 MR. MATASAR: I've seen it.

22 MR. CARDANI: I'd ask if I could tender these
23 to the court. I'm showing you the current U.S. passport
24 and the recent Iranian passport, if I might, for the
25 benefit of the clerk. And one can see those

1 discrepancies, the facial ones, and also of the date of
2 birth and the spelling.

3 So what are we to make, Judge, of the
4 passports, with all of the travel that Mr. Seda has
5 done? And the passports indicate --

6 MR. MATASAR: Excuse me, have you given the
7 judge both passports, both Iranian and both American, or
8 just one of each?

9 MR. CARDANI: I have given him the current U.S.
10 passport and the current Iranian passport. I have
11 copies of both old ones.

12 MR. MATASAR: I'd ask that in conjunction he
13 see those as well.

14 MR. CARDANI: Okay. I'd tender copies of both
15 the old passports.

16 Judge, what those passports and the cancelled
17 passports show is that Mr. Seda, while an international
18 fugitive from charges in this court, traveled
19 extensively in Iran, Syria, Saudi Arabia, UAE. And he
20 got an Iranian passport in 2006 that is what I believe
21 to be an attempt to disguise himself by information and
22 facial recognition. If he has -- if that is true, then
23 that makes him a flight risk in my opinion, despite the
24 fact that he surrendered.

25 And we went round and round with Judge Coffin

1 on this. And we were not able to overcome his statement
2 that, yes, but he returned. And my response to that,
3 Judge, is -- and with all due respect to Judge Coffin,
4 who I respect immensely, is that Mr. Seda is back now to
5 fight the charges, as he claims. And if it's a trial he
6 wants, it's a trial we will give him. But when you look
7 at what he did before he left the United States, and the
8 operation he was running in al-Haramain internationally
9 and promoting the acts of mujahideen, and the prisoner
10 project, the Internet service provider, all of those
11 things, and he left during the middle of an
12 investigation that he knew he was the subject of, and
13 secreted himself overseas, and remained a fugitive for
14 four-and-a-half years, traveling extensively, with money
15 that is unknown, with jobs that are unknown, with
16 passports that appear to have been altered, then the
17 question that comes up for us is, what else is he going
18 to do while he's here? And is he going to stick around
19 when it gets hot? We're going to provide discovery.
20 We're going to enter into the trial prep and the trial
21 phase. And it's our concern that he is a bona fide
22 flight risk.

23 We also believe, as I said before, that he is a
24 danger, for the reasons -- for the reasons I stated.

25 Judge, in conclusion, what our real concern is,

1 where has he been getting his money while a fugitive?
2 Why? What was the purpose of all his travels? And how
3 was it funded? And if he doesn't have access to a
4 readily source of independent money here, it's our
5 concern that he's going to be doing just the same thing,
6 covertly, overtly, I don't know. But we have gone round
7 and round with Mr. Seda. And the court, through
8 Pretrial, has asked him for very detailed information,
9 but fair, basic information of the likes that I've
10 talked about, the occupation, the travel, the money, and
11 I don't believe that those questions have been
12 adequately answered.

13 THE COURT: Lea -- I'm sorry to -- Ms. Force.

14 THE CLERK: Yes.

15 (Discussion held off the record between the
16 court and clerk.)

17 THE COURT: I'm sorry, Mr. Cardani.

18 MR. CARDANI: Judge, one issue that came up at
19 the detention hearing is that Mr. Seda claimed to
20 Pretrial, through Mr. Matasar, that when he left the
21 United States, he left and had proceeds from the sale of
22 a house, which netted \$475,000. We've looked into that.
23 And it is true that he sold a house and netted roughly
24 \$475,000. But we also know from the escrow records that
25 Mr. Seda had all these credit cards to pay off, and a

1 bunch of other bills that were paid from that money, and
2 that money was reduced down substantially to a figure of
3 \$78,000. And that was over a year before he left the
4 United States. And we know from bank records that we
5 submitted to Pretrial Services that that money was drawn
6 down as well. And the bank accounts that we know of
7 showed that Mr. Seda had, at most, \$30,000 from bank
8 accounts when he fled the United States in 2003 during
9 the investigation.

10 When the search warrant was done, a year later,
11 Judge Cooney had issued it, Mr. Seda was operating a
12 building for al-Haramain purchased by al-Haramain money
13 that was used as his residence, as a prayer house, and
14 had some land on it. In trailers on this prayer house,
15 we -- the FBI and IRS found a number of weapons. Those
16 weapons are delineated in the government's memorandum,
17 several weapons, semiautomatic handguns, ammunition, and
18 the such.

19 We believe that those weapons are now in the
20 possession of Mr. Seda's son. The weapons were not
21 seized because Mr. Seda at the time, who was gone, had a
22 concealed weapons permit, and the weapons were otherwise
23 lawful.

24 If I may take a look at my notes, Your Honor,
25 if I may have a moment.

1 (Discussion held off the record between the
2 prosecutor and agents.)

3 MR. CARDANI: Judge, two other matters before I
4 conclude. Mr. Seda's wife, who I think is in the
5 courtroom, arrived recently into the United States. I
6 don't know about all the details, but I understand that
7 she knows very little about Mr. Seda's recent travels
8 and what he's been up to.

9 I think that they've been apart the better part
10 of two years, and she did not have any helpful financial
11 information that she was willing to share to the court,
12 to the best of my knowledge.

13 But, Judge, also, the information that has been
14 given is scant. If there is more information provided,
15 given this record, it should not be accepted at face
16 value. It cannot be accepted at face value. And part
17 of the troubling aspects of this is we don't have a
18 Pretrial Service offices in Bahrain or Damascus, Riyadh,
19 or United Arab Emirates. But we do have some resources
20 that we can use to run down information, and we're
21 willing to do that.

22 One of the problems, though, is if Mr. Seda has
23 been taking money and taking support from people that
24 he's not allowed to, it may be a crime. And so there is
25 a -- I point that out because I don't want to set a box

1 here for Mr. Seda that he's giving us information that
2 we're, you know, building a potential case against him
3 for. But that is an -- and I don't know if it's true,
4 because we just don't have that information. But given
5 the fact that he hasn't come forward with any
6 information like this, it remains a real concern of
7 ours. We would like to run down the information and are
8 happy to do so, but we do have those concerns.

9 Judge, back to how I opened this, as a matter
10 of procedure, we're perfectly willing to fly the
11 witnesses back out here, and start this from the ground.
12 It's going to take some time. And I'd need a stay of
13 Judge Coffin's order to set this up.

14 Short of that, we can expedite the transcripts
15 from the court reporter and tender them to the court. I
16 haven't spoken to her again about when that can be done,
17 but my guess would be if it's expedited with the court's
18 assistance, it may be done as early as next week, I
19 don't know, from the court reporter. Or the court can
20 consider the submission on the current record.

21 But we feel strongly about this. As I said,
22 it's the first appeal in 15 years I've been doing
23 business here. And we do consider him both a danger to
24 the community and a flight risk.

25 THE COURT: Why do you believe he came back?

1 MR. CARDANI: Well, there is a lot of
2 litigation going on involving al-Haramain throughout the
3 country. And I think part of that may be that he's here
4 to promote the litigation. There is a suit by
5 al-Haramain to reverse the terrorist designation
6 currently filed in Portland. There is a Ninth Circuit
7 appeal that was heard the very day Mr. Seda returned to
8 the United States, August 15th. The issue is involving
9 the National Security Agency, and whether they
10 essentially wiretapped conversations between
11 Mr. al-Buthe and civil attorneys in Washington, D.C. So
12 I think that perhaps it's part -- it's partially to get
13 that going.

14 And there is nothing sinister, necessarily,
15 about that, but if the court wants my opinion, I think
16 it may be that.

17 Maybe it's that he's sick of living overseas,
18 where the freedoms are fewer, and money may be harder to
19 come by, I don't know.

20 But the more sinister explanations could be
21 that he's here to do what he did before, and that's
22 support, in the United States, as a U.S. citizen, the
23 very acts that he took off, when he was under
24 investigation from, in the first place.

25 And the reason we don't know any of this is

1 because, by and large, the information that would help
2 us determine that has not been forthcoming. There is no
3 financial information, that I'm aware of, that is before
4 the court to explain really what he has been doing for
5 the last four-and-a-half years.

6 And if that's the case, given his background
7 and what he did here, all the travelling he's done, it's
8 extremely troubling. And I think it just raises some
9 very serious questions for the government and for the
10 court.

11 THE COURT: All right. Thank you.

12 Mr. Matasar, before you start, I -- the
13 computer does not show a memo filed by you since
14 August 21st.

15 MR. MATASAR: That's correct, Your Honor. I
16 believe that is the date.

17 THE COURT: All right. So it's the August 21
18 memo I need to read, right?

19 MR. MATASAR: Yes, and exhibits, correct.

20 THE COURT: Thank you.

21 MR. MATASAR: Your Honor, I'm going to start
22 with the end about what Mr. Cardani said, because I
23 think that's the -- the most telling aspect of this
24 case. When you asked him why you think he came back, he
25 said, first, because he wanted to be involved in the

1 lawsuits and the litigation, that there was some
2 litigation trying to reverse the designation. I've
3 submitted that lawsuit with my papers. I've submitted
4 some of the supporting documents for that lawsuit. Very
5 telling, important litigation. There is also other
6 litigation concerning a secret document. There is --
7 that's involved.

8 And if that's why he came back, there is no
9 reason to detain him, except to keep him quiet, and make
10 it difficult for him to do that, if that's why he came
11 back. If he came back because he was tired of running
12 and he was just -- it was difficult for him being an
13 anti-terrorist, pro-peace Muslim in the Muslim world in
14 this day and age, and I've indicated some of that in my
15 documents, if that's why he came back, being an American
16 living in Iran in this day and age, where there is an
17 anti-American fervor in Iran, if that's why he came
18 back, well, more power to him. That's not a reason to
19 detain him.

20 If the government's only other reason they gave
21 is saying that he intends to engage in some sort of
22 complicated -- they've even indicated financial --
23 machinations, or what, the court can easily control
24 that. This court does that. And Judge Coffin has had
25 people making multi-million dollar -- I wouldn't say

1 it -- in those cases, swindles, frauds allegations, and
2 this court routinely crafts careful conditions to allow
3 people to be out, and yet their bank accounts being
4 maintained. So if those are the reasons why he came
5 back, he should be released.

6 I am frankly surprised, Your Honor, that
7 Mr. Cardani is even making claims about danger, because
8 this is what Judge Coffin said yesterday. He said,
9 "There is no presumption from the charges that he's
10 charged with that he's a danger. And I'm not persuaded
11 by the evidence that the government has presented that
12 he constitutes a danger to the community. And, in fact,
13 there has been several instances in which the government
14 has stated on the record that they didn't believe he was
15 a physical danger to the community. Am I correct in
16 that?" Mr. Cardani says "Yes."

17 So the kind of danger that they are talking
18 about is so vague and diffuse that it can be easily --
19 and we believe there is certainly no support for it, we
20 believe that it could be easily dealt with by release
21 conditions.

22 What you don't have, Your Honor, I don't think
23 now, is the information that Pete Seda is a force for
24 peace in the community, not a danger. He's written a
25 book on Islam, some of which I've attached. I've also,

1 I think, cited the entire book, which is available on
2 line, called *Islam Is*, translated into seven languages,
3 distributed widely throughout the world, in the United
4 States and in the Arab world. It flatly states
5 terrorism is against Islamic principles. The killing of
6 innocents is murder and a crime against humanity, even
7 during times of war, and even when the other side does
8 not similarly respect human life. That's his belief.
9 That's what he's always believed.

10 He distributed this literature in foreign
11 governments -- in foreign countries, even while he was
12 gone this recent period of time, causing him to receive
13 threats and other difficulties.

14 There is a letter in my materials from Rabbi
15 Zaslow, the rabbi and spiritual leader of the Ashland
16 synagogue. And this is what Rabbi Zaslow says, and
17 Judge Coffin, because I believe he felt that the rabbi's
18 comments were important, spoke about them on several
19 occasions as he was making his decision. Rabbi Zaslow
20 says that from the time he was ordained, which was, I
21 think, in the '80s, until several years after
22 September 11th, quote, Pete Seda was my peace partner in
23 bringing a bit of hope to both the Jewish and Muslim
24 communities of southern Oregon. He spoke passionately
25 against violence, Islamic terrorism, and for

1 reconciliation with the Jewish community. He took some
2 personal risks not only to associate himself with the
3 Jewish community here, but to proclaim a very positive
4 public view about Israel. That's what the rabbi says.

5 We called on a minister, a Lutheran minister,
6 at the hearing who gave similar comments to Judge
7 Coffin.

8 Another thing that is surprising to me, Your
9 Honor, here today to hear Mr. Cardani is to hear him
10 talk about the evidence, which I can only think of is
11 evidence in quotation marks about things that Mr. Seda
12 has done. This letter that he talks about being found
13 on the servers of a -- some sort of Internet service
14 provider that was somehow linked with the defendant,
15 this letter supposedly from Osama bin Laden in argument
16 was thoroughly discredited at the previous hearing.

17 I am just shocked that Mr. Cardani is standing
18 in a federal courthouse and arguing that somebody should
19 be detained based on Exhibit O. We -- they had two
20 experts testify at that hearing, Your Honor. None of
21 them could even read the Arabic. In this Exhibit O
22 there is Arabic, which is purportedly from Osama bin
23 Laden. They couldn't read Arabic, yet they're supposed
24 Arabic experts. Our expert, a professor at the
25 University of California, said having an expert on the

1 Middle East that can't speak Arabic is essentially like
2 having an expert on the United States that doesn't speak
3 English. It's nonsensical. But this document, A, our
4 expert explained, that the Arabic is not accurate. It
5 is not the kind of sentence structure that would even be
6 written by a true Arabic speaker. And our expert is.
7 He was a -- Professor AbuKhalil was a native Arabic
8 speaker. I believe he was born in Beirut. He said that
9 this looked like the kind of thing that came out of
10 perhaps some sort of Internet translation program, or
11 some sort of simple translator, because it doesn't make
12 sense. Things like, me store go now, that sort of
13 thing. The government is presenting this.

14 Not only that, the e-mail address that this
15 document supposedly came from is
16 osamabinladen@hotmail.com. Hard to believe that -- and
17 our expert, who was enough of an expert that he wrote a
18 book on Osama bin Laden, said he was a sophisticated
19 user of the Internet, and would never, in his opinion,
20 have an e-mail address like
21 osamabinladenmuslim@hotmail.com.

22 The government says they don't want religion to
23 be part of this case, yet they bring it up again and
24 again. They fail to mention that this evil Wahhabi
25 faith is -- both was and is the other official faith of

1 the government of Saudi Arabia. They don't tell the
2 court, as they very well know from the previous hearing,
3 that the books that the -- that the Saudi Arabian
4 government is the foremost proponent of Islamic
5 literature in the world. And that as Professor
6 AbuKhalil said, they won't even give you a potato
7 without a book attached. And when you get a book, you
8 get their version of the book. That doesn't mean that
9 it's -- there is anything wrong with distributing
10 literature.

11 Mr. Cardani talks about al-Haramain being
12 designated. That is correct. The Treasury Department
13 has the power to designate individuals and to designate
14 organizations. Pete Seda was not designated. That's an
15 important fact.

16 As far as the delays with Ms. Brown, I know the
17 court has a much closer relationship with Lisa Brown
18 than I do. We provided her with information. She
19 simply did not accept what we believe is a fact, that
20 there are no addresses, as we know them, in Saudi
21 Arabia, in Syria, or in the United Arab Emirates. We
22 gave her as many descriptions as we could as far as
23 where Mr. Seda lived. As far as Iran, we said there
24 were addresses. And I gave her the specific addresses
25 in e-mail form, and a way to verify those.

1 In the typical case here, Your Honor, the
2 Pretrial Services will verify with the spouse, will
3 verify with others things like where the defendant was.

4 As far as the tax information, as far as the
5 detailed financial information, I have told Mr. Cardani
6 that we're simply not going to provide that, because
7 this is a tax case. He has not indicated that the
8 information we provide would not be used against the
9 defendant at trial. I've asked him that. He was
10 unwilling to do that on at least two occasions. In our
11 view, it is not routinely asked in pretrial settings and
12 should not be required here. The court can make -- and
13 if the court saw the questioning of our character
14 witnesses, we called a Lutheran minister at the hearing
15 to talk about Pete Seda's character, how she knew him,
16 how well she knew him, and what she knew about him. The
17 questions from the government were simply when is the
18 last time you talked to him? Where did you see him?
19 Have you been in contact with him? That sort of thing.

20 We also believe that people will simply not
21 give correct verification information about Mr. Seda,
22 which is another major problem, especially when law
23 enforcement calls. I indicated -- I talked about that
24 in my letter.

25 The differences in the date of birth, I think

1 if the court looks -- I think -- and I'm not an expert
2 on this. I believe there -- if you look at all
3 Mr. Seda's Iranian documents and all his American
4 documents, there is a difference in the date of birth.
5 However, they are consistent. He was born in Iran. All
6 those documents have one date. In the U.S., when he
7 came here, his citizenship papers and others, I believe,
8 have this different date. That happened when he became
9 a citizen. It's been consistent throughout the time.
10 There is no recent attempt to --

11 THE DEFENDANT: When I came to the United
12 States in 1976.

13 MR. MATASAR: Yes, in 1976. If you look at the
14 documents, when he came here in 1976, not just recently,
15 if you look at those documents.

16 THE COURT: Explain that difference in dates
17 again. I didn't understand it.

18 MR. MATASAR: Your Honor, I'm not sure of the
19 exact reason why the dates -- and perhaps in a
20 conversion, the birth certificates were different. I
21 could find that out for you. I've spoken with other
22 people -- other Middle Eastern people. I can say that
23 the dates -- the different dates predate this
24 investigation in this case. That's my main point. As
25 far as how it originally occurred, I think it occurred

1 near the time of his birth -- near the time when he
2 first came to the United States as a student. So beyond
3 that, I don't know the precise information.

4 In our view, again procedurally, we're open to
5 however you wish to do it, we believe the court has
6 sufficient information, even given these accusations,
7 which have a completely -- we also talked a little bit
8 about the geopolitics, some of which is in my letter,
9 just are, in many ways, nonsensical.

10 Even granting all of that, if you look simply
11 at the charges -- we don't want to make this too
12 complicated. You look at the charges, you look at the
13 voluntary return, you look at the conditions that can be
14 imposed by the court in a pretrial setting, we simply
15 think the court should release Mr. Seda with the same
16 conditions that Judge Hogan did -- I'm sorry, that Judge
17 Coffin did.

18 Let me also give Your Honor the documents. I
19 believe you have all of these. All I'm presenting to
20 the court now, and I would like a copy later, is the
21 material that Lisa Brown gave me that she said that she
22 gave to the government. I had objected to the
23 government getting some of this material. I thought it
24 was inconsistent with the Pretrial Services statute.
25 Judge Coffin disagreed. And I -- but he did agree that

1 I should get all information that was provided to the
2 government. So I believe the court has all of this, but
3 I just want to make sure.

4 THE COURT: I think I do. I've sent for your
5 August 21 memo, also.

6 MR. MATASAR: Okay. All right.

7 THE COURT: Mr. Matasar, why didn't your client
8 disclose the Iranian passport at the first Pretrial
9 Service interview?

10 MR. MATASAR: I was there, Your Honor. There
11 was no question that I recall about another passport.
12 As soon as it came up, we gave them the passport at the
13 hearing. I was unaware that there -- I can't remember
14 exactly what happened. The way the interview occurred,
15 Your Honor, it was via a kind of Internet phone and a
16 telephone. Ms. Brown missed several things in that
17 interview. She told us when we saw her in person that
18 we didn't tell her about Mr. Seda's wife. And I said,
19 "Yes, we did. I was there. We told you about his
20 wife." And then she looked at her notes, and she said,
21 "Oh, yes, here, I have it. I wrote it down wrong." I
22 simply don't recall any sort of question. As soon as it
23 became an issue, we provided it to the government early
24 on.

25 THE COURT: Here is what Ms. Brown says in a

1 memo to me today: When asked about passports, this was
2 on the August 13 interview, the defendant admitted to
3 having a valid American passport. He failed to report
4 his Iranian passport. Now, on his arrest, it says his
5 American passport was confiscated. And then the Iranian
6 passport, when it was questioned at the hearing, was
7 produced. Which American and which Iranian passport?

8 MR. MATASAR: The American passport that was
9 seized at the time of arrest was a valid American
10 passport.

11 THE COURT: Was it the earlier one or the later
12 one?

13 MR. MATASAR: No. The -- what happened, Your
14 Honor, was the earlier American passport was surrendered
15 at the Embassy in return for a new one. It was
16 invalidated. They punched it in two places. Okay. So
17 when he had to travel, he could only travel with a valid
18 passport. There is a cancelled stamp on it with a date.

19 THE COURT: Sure.

20 MR. MATASAR: So that's the American passport.
21 The Iranian passport was obtained before -- or at the
22 time of detention hearing, I think I didn't have a
23 chance to give Mr. Cardani it before the hearing,
24 although I had it before the hearing. And I gave it to
25 him at the recess. Then we also found -- or there

1 was -- we were able to get a previously cancelled
2 Iranian passport, which we have provided to the court,
3 through Ms. Brown.

4 The photograph, Your Honor, Mr. Seda, I think,
5 could address this maybe more appropriately and more
6 detail in chambers. I can only say, and as you can
7 imagine, if you are an American in Iran now, it's an
8 extremely difficult time. And he had a lot of
9 difficulties there, mostly because of his
10 pro-Americanism, of all things, given where we are here,
11 similarly in United Arab Emirates. His problem in the
12 Middle East was that he was an American and not what
13 Mr. Cardani wants you to believe.

14 Another thing, Your Honor, at one point
15 Mr. Cardani said, when Judge Coffin asked, "Well, do you
16 think he's a Trojan horse? Do you think some
17 intelligence service sent him back here in order to
18 wreak havoc?" And Mr. Cardani said, "Well, maybe, yes,
19 maybe that's the case."

20 THE COURT: Why was the second American
21 passport obtained?

22 MR. MATASAR: The second American passport was
23 obtained because the first one was filled up with
24 stamps. If you look at the first one, you will see it's
25 completely filled. And Mr. Seda -- because, Your Honor,

1 when you are in Dubai, they have a system which I think
2 was similar to one proposed in the U.S. recently,
3 immigration reform. If you are not a citizen, you have
4 to leave every 60 days, I believe.

5 THE DEFENDANT: Fifty-nine days.

6 MR. MATASAR: Fifty-nine days, in order to
7 leave and reenter and get another temporary Visa. I
8 think they call them Visa trips. It's very common.
9 Lots of people do it. You go out, you come right back
10 in --

11 THE COURT: I'm aware of that --

12 MR. MATASAR: -- it's a normal, accepted thing,
13 stamp, stamp, stamp.

14 THE COURT: -- not in those countries, but I'm
15 aware of it in other countries.

16 MR. MATASAR: Okay. Right, right. So that's
17 what happened. If you look at it, it's filled, and he
18 turned it in -- if you look at the first American
19 passport, Your Honor, you'll see it's marked
20 "cancelled." There is a big cancelled stamp on it and a
21 date. And that's really what happened. There is no
22 mystery to that.

23 THE COURT: Why are the names spelled
24 differently?

25 MR. MATASAR: Your Honor, I think if you look,

1 that's a problem throughout this case. I think we have
2 a different name -- sometimes I do, the government uses
3 others. All I can think -- I think there is
4 transliteration problems.

5 (Off-the-record discussion between the
6 defendant and defense counsel.)

7 MR. MATASAR: As I understand it -- and
8 transliteration may be the wrong word. That's my word,
9 not my client's word. I believe the I is used typically
10 in Iran. The Y is used typically in the U.S. There are
11 numerous changes throughout time with Arabic spellings.
12 Koran used to be K-O-R-I-N -- sorry, K-O-R-A-N. Now
13 it's Q-U-R apostrophe A-N. In translating --
14 transliterating from Arabic to the United States, there
15 is many of those changes. Also, especially after the
16 revolution. My client tells me there were problems.

17 Certainly, Professor AbuKhalil is the man who
18 could most explain that. He's not here. I just don't
19 know the answers to those questions.

20 Again, what Mister -- what Judge Coffin said
21 was he even ascribed a more negative view of it, that
22 somebody is just trying to avoid detection, and maybe
23 intentionally used the wrong -- used different
24 addresses, which we don't believe is what occurred.
25 Even then, what Judge Coffin said is, I can see somebody

1 doing that, which didn't happen here, nonetheless, he
2 got tired of running, he came back, and, therefore, I
3 can fashion these conditions.

4 So we didn't have a chance there to give him an
5 explanation, but in our view, the voluntary surrender is
6 important, the single most important fact.

7 THE COURT: How will he support himself if he's
8 released?

9 MR. MATASAR: Your Honor, Mr. Seda is a gifted
10 arborist. I believe, if you look at my materials, when
11 you get them, in the past he's been hired by the City of
12 Eugene, in fact, to solve problems with saving old
13 trees. He's been hired by the City of Ashland to have
14 similar work, save old growth trees, within a city
15 limit. We believe there are several places where he'd
16 be able to get work. Within a week or two, he'd be able
17 to do that.

18 THE COURT: And how did he support himself for
19 the four-and-a-half years he was out the country.

20 MR. MATASAR: We provided much of this with
21 Ms. Brown. And I have materials. He tried various
22 kinds of consulting work and sales work. He would work
23 either -- essentially, buying and selling equipment,
24 buying and selling other materials. He did some
25 consulting work as part of his expertise, his arborist

1 work. Primarily, though, he would work in sort of sales
2 for legitimate companies.

3 He had a card. The court will have a card that
4 he used in the United Arab Emirates, a card that he used
5 in Syria, and a card that he used in Saudi Arabia. All
6 of those -- I'm sorry, two companies. All of those are
7 in the material that we gave to Ms. Brown. We also gave
8 some assorted things, which Mr. Cardani sort of implied
9 was nonsense, but in order to show that he was where we
10 said he was, we gave things like a shoe sizing slip that
11 he got when he was buying shoes in Syria. The point of
12 giving that to her was is that it showed that he was in
13 Syria on a certain date. That is what we tried to do.
14 And so that she knows that he was where he said he was.

15 THE COURT: And --

16 MR. MATASAR: And the community has opened
17 itself up to him. Jeff Golden, who testified, has
18 indicated -- he's a public radio host, close to -- I
19 think in some of my papers, I say this, there were those
20 who thought he should run against Senator Smith for the
21 United States Senate. He has indicated Mr. Seda could
22 stay with him. A lawyer, David Berger, a retired
23 antitrust lawyer from Seattle, who knows Mr. Seda. The
24 community is behind him. We hope he can get work, too.
25 I'm sorry.

1 THE COURT: Where did he live and how was he
2 employed for two years in Iran?

3 MR. MATASAR: In Iran, we have two -- we have
4 the addresses. I don't have them in my head. There is
5 an e-mail that I gave to Ms. Brown which lists both of
6 those addresses.

7 THE DEFENDANT: Four addresses.

8 MR. MATASAR: There were two major addresses,
9 there were some other addresses briefly in the meantime.

10 As far as his employment, it was similar
11 consulting.

12 (Discussion held off the record between the
13 defendant and defense counsel.)

14 MR. MATASAR: Oh, oh, that's it. I'm sorry,
15 Your Honor, I'm told that one of Iran's largest trading
16 partners, if not the largest, is Dubai. And there is a
17 huge amount of trade between those two countries. Dubai
18 is actually one of the United Arab Emirates. And
19 Mr. Seda was involved in both places. Remember, he is
20 Iranian. He has a natural -- has family there, his
21 birth place is there. And he was trying to work,
22 although it was extremely difficult given his ties to
23 America, trying to work in importing stuff between Saudi
24 Arabia -- I'm sorry, between Dubai and Iran.

25 THE COURT: What languages other than Farsi and

1 English does he speak?

2 MR. MATASAR: None, Your Honor. He is not
3 fluent in Arabic.

4 THE COURT: Well, some comments. I'm obligated
5 to take a fresh look when this comes to me. Of course,
6 I have respect for Judge Coffin. I hired him because
7 he's smart. But -- and I hate to ask you to fly all
8 these -- bring these witnesses back, and I don't think
9 it's necessary. If there is someone you want to hear on
10 the phone, fine. If transcripts will suffice, they
11 probably would for most of this.

12 My questions have to do more with flight risk.
13 The amount of information, I appreciate the answers
14 you've given me today to my questions, but I could tell
15 you that Pretrial has lots of unanswered questions here.

16 I asked whether -- I asked Ms. Brown whether
17 Judge Coffin had given her authority to look at the
18 affidavit filed in connection with appointment of
19 counsel. And she said he had, but she had not looked at
20 it. And, frankly, unless there is an objection, I
21 intend to.

22 MR. MATASAR: That's fine, Your Honor.

23 THE COURT: Then there are some detail,
24 frankly, that I'm going to want on some of these areas
25 that I have talked about.

1 MR. MATASAR: Your Honor, we'll be happy to
2 provide that. If you want to give that to us from the
3 bench or put it in a minute order, we're happy to
4 provide that. I expect we can.

5 THE COURT: Well, with regard to Ms. Brown and
6 her supervisors, I've been contacted by her and those up
7 the line, let's put it that way.

8 MR. MATASAR: I'm not surprised.

9 THE COURT: They are concerned about whether
10 the information is verifiable. They are concerned about
11 the passport issues that I've just been asking you
12 about, and I pointed out some of the questions. They
13 have questions about this two-year period in Iran where,
14 at least to Ms. Brown, no one, including the defendant's
15 wife, can report where he was staying or how he was
16 employed.

17 MR. MATASAR: Your Honor, she's not -- it's
18 difficult for her to go to Iran. She did not go. And I
19 provided Ms. Brown with the person who was with him.

20 THE COURT: There is easy communication to Iran
21 though.

22 MR. MATASAR: Communication, not so much
23 travel.

24 THE COURT: Yeah. I'm going to base -- I'll
25 base it on what is in the record, but I have a number of

1 Iranian friends who some are citizens of this country
2 and some not, and they manage to travel some. And I
3 won't -- that won't be a part of it, but there is
4 telephone service, I know.

5 MR. MATASAR: Certainly, certainly. We gave --

6 THE COURT: Internet service. My son sent us
7 an e-mail this morning from Shanghai, so the world is
8 getting smaller, not bigger in that regard.

9 MR. MATASAR: Right. Women traveling to Iran,
10 different matter. But in any event, I just want to make
11 clear that there is an e-mail, which I think the court
12 has, where I gave Mr. Seda's addresses to Lisa Brown and
13 a contact person, his ex-wife.

14 THE COURT: I will study all this material.
15 Here is what Ms. Brown said, to summarize, Pretrial has
16 very limited financial information for the past
17 four-and-a-half years.

18 Now, I am also sensitive to the fact that there
19 is a tax charge here, and a money laundering charge, and
20 some information perhaps can only be submitted in camera
21 to the court. And I am aware of that. And if I need
22 help to understand it, I suppose I could retain my own
23 expert to help me in an in camera consideration. But
24 I'm going to respect the questions they have at this
25 point.

1 With regard to schedule, I am going to continue
2 this consideration to next Tuesday at 1 o'clock. Judge
3 Coffin's order is stayed until the result of that
4 hearing.

5 And if you want to present -- if you want to
6 call other witnesses or present other information, you
7 know, the sooner you can get it to me, the better,
8 because your client, Mr. Matasar, deserves as speedy a
9 consideration of this as we can give it.

10 MR. MATASAR: Your Honor, I think you might
11 have a little more persuasiveness with regard to getting
12 the transcript rushed. I think both Mr. Cardani and I
13 would like to know if the transcript from the previous
14 hearing would be ready by that date. I think that might
15 allow us to go in one direction rather than another.

16 THE COURT: I plan to inquire, but I've only
17 been doing this work for 34 years, and court reporters
18 have their own independent spirit on these things.

19 MR. MATASAR: Yes, I understand. Let me have a
20 minute.

21 THE COURT: Sure.

22 MR. CARDANI: Judge, what we've been discussing
23 is that if the court is not so much interested in
24 hearing evidence on the dangerousness issue, then the
25 testimony that is transcribed was by and large a lot of

1 that. There was very little that I think the court is
2 going to find of any assistance in the transcripts on
3 the flight issue. If the court wants to review the
4 dangerousness evidence and those witnesses, we can order
5 an expedited transcript. It's a funding question. But
6 we will get it done. And it would just depend on
7 Ms. Anderson's schedule. And we can get that done.

8 THE COURT: Let me just comment about that.
9 It's true that my focus is on the flight risk at this
10 point.

11 With regard to the type of danger you're
12 talking about, I'm not commenting one way or the other
13 about whether it exists, but I believe that I have tools
14 at my disposal to help me. If I need to control the
15 defendant's travel, or associations, or activities, I
16 can do that. I can control him, whether computers are
17 available, or whether other kinds of things happen.

18 MR. CARDANI: So given that, and I don't want
19 to interrupt.

20 MR. MATASAR: Go ahead.

21 MR. CARDANI: Given that, I'm not sure that the
22 lack of transcripts will be an issue for the court. I'm
23 willing to let this go forward without those transcripts
24 right now, if Mr. Matasar is.

25 MR. MATASAR: My concern is if I am going to

1 need to bring real live witnesses to rebut their real
2 live witnesses. If what Mr. Cardani is saying is he
3 doesn't intend to call additional live witnesses to go
4 into the dangerousness, that's fine with me. And then I
5 won't either. And then we'll focus at this hearing on
6 the flight risk, and won't present additional material
7 to the court.

8 THE COURT: Mr. Matasar, I don't presume to
9 tell you what sort of information that could reflect on
10 the tax charge to make available to the government or to
11 me, but I am willing to look at material in camera. And
12 to the extent you can give us some confidence to the
13 people advising me on these issues of how someone
14 financially handles this travel, and what their
15 activities were, and given the history of the passport,
16 I'm quite concerned about the fact that the Iranian
17 passport was not disclosed. And so, you know, that
18 shakes someone's confidence in whether they have them
19 all. And that's the sort of thing I'm interested in.

20 MR. MATASAR: I understand that, Your Honor.
21 You are focusing on perhaps hidden assets that might
22 make flight easy rather than how he earned his living in
23 some general sense; is that true?

24 THE COURT: That's right.

25 MR. MATASAR: Is that what you are saying?

1 THE COURT: Yes.

2 MR. MATASAR: And, again, if you -- if I heard
3 what Ms. Brown said, she said, I asked him about the
4 American passport, and he didn't tell me about the
5 Iranian passport. I think -- and, again, I have -- I
6 think I have notes, but you can't -- I don't think -- go
7 to Iran and Syria with an American passport.

8 THE COURT: Could be.

9 MR. MATASAR: I don't think there was
10 anything -- I don't think there was any intent to hide.
11 I'll get all that for you, Your Honor. I'm reading Your
12 Honor clearly that one of the things you are concerned
13 about is the Iranian passport and I'll have that
14 material for you.

15 THE COURT: You tempt me to call my friend Ali
16 who watched the football game with me Saturday. It may
17 be a quick call.

18 MR. MATASAR: Not in Ann Arbor. I was at that
19 one myself.

20 I don't think -- I think he will tell you, Your
21 Honor, that -- probably not the best way for us to go
22 about this, but I don't think an Iranian can go to the
23 country of Iran with an American passport.

24 THE COURT: I don't know. He's offered to take
25 me, but maybe he doesn't know.

1 THE DEFENDANT: An American can.

2 MR. MATASAR: An American can, I think. I
3 think you can. Mr. Seda can't.

4 THE COURT: Okay.

5 MR. MATASAR: So as far as in camera, Your
6 Honor, do you want to simply have an in camera
7 discussion directly with the defendant? We have no
8 problem with that.

9 THE COURT: That would be -- that would
10 probably be helpful but --

11 MR. MATASAR: Okay.

12 THE COURT: -- we're looking for things that we
13 can verify.

14 MR. MATASAR: Right.

15 THE COURT: And that doesn't really give us
16 that so much.

17 MR. MATASAR: I understand.

18 THE COURT: Whether they have addresses in
19 Damascus or so on, I don't know. I've not been to
20 Damascus, but there is some information that we should
21 be able to verify.

22 MR. MATASAR: Okay.

23 MR. CARDANI: Judge, a couple of points of
24 clarification. The Iranian passport, the cancelled one
25 and the current one, neither were on his possession when

1 he was arrested. They somehow got to Mr. Matasar from a
2 separate source. They were not with Mr. Seda when he
3 returned to the United States. I don't know why.

4 I respect that the court is heading towards, on
5 the financial information, and it's a difficult one, but
6 I ask, when the court reviews whatever financial
7 information comes forward, it hasn't been forthcoming to
8 this point, and there is some type of reason for that.
9 And I think there is a probably negative inference at
10 this point that can be drawn from it.

11 MR. MATASAR: Blame it on me, much of it should
12 be blamed on me, because I specifically said we're
13 not -- we're worried about it. That's my fault.

14 THE COURT: We're happy to think negative
15 things of you, Mr. Matasar, if you insist.

16 MR. CARDANI: There are no negative inferences
17 to Mr. Matasar, I assure you. He's been a pleasure to
18 work with.

19 But I do want to say this: Any financial
20 information that comes to the court, Judge, there is
21 some real serious issues with Iran these days. There
22 are economic sanctions, that I'm sure your friend can
23 attest to. One can't just go there and engage in all
24 types of acts of commerce as an American citizen without
25 running afoul of economic penalties and criminal

1 penalties.

2 THE COURT: I've handled some of those cases.

3 MR. CARDANI: Okay. So if the court does not
4 want to share the information with us to help run this
5 down, I'd just ask that the court keep that in mind.
6 And if he was committing crimes in Iran by engaging in
7 prohibited activities while an international fugitive
8 with a secondary passport that he got in 2006, with the
9 different facial expression, different date of birth,
10 and a different spelling of his last name, all kinds of
11 negative inferences, I think, should be drawn from that.

12 Now, in terms of what we're able to do for the
13 court to get the court some more information from our
14 standpoint before next Tuesday, are there any issues
15 that the government can address? Whether one has a
16 fixed address, do people have houses with numbers on
17 them in Syria and Iran, is that going to be of
18 assistance to the court?

19 THE COURT: Could be. I don't know. You know,
20 you both get to box a little bit, because you need to be
21 sensitive to any information you have that could result
22 in further criminal exposure, and Mr. Matasar knows that
23 the more detail he gives me, then the better it's going
24 to be for the case he's making on release, and sometimes
25 people decide not to tell things and take their chances

1 on release. That's -- those are decisions you folks
2 will have to make.

3 MR. CARDANI: And the IRS has lots of very good
4 resources at running down financial information. We all
5 know that. If there is anything that we can do to help
6 corroborate that to the court, we stand willing to do
7 that as well.

8 But I understand the sensitivities with that.
9 But the financial information is really the huge hole in
10 this, the unexplained hole, how was all this travel
11 funded, and what he did to maintain himself while
12 overseas is the most troubling issue for us in terms of
13 flight risk, along with the passport.

14 So we will do our best to prepare for the
15 hearing anything we can think of, but --

16 MR. MATASAR: Can I ask why that is, Judge, I'm
17 trying to answer this: There are two questions that I
18 have so we can try to get the court the best possible
19 information. One is, we see people, say, selling drugs
20 who are here for the third time, and they want to get
21 out. And, frankly, they've been selling drugs for the
22 last year. And -- or defrauding something, whatever.
23 I'm not sure exactly what the link is here because let's
24 say -- and I'm just making this up now --

25 THE COURT: International -- it's the history

1 of international travel.

2 MR. MATASAR: It's the travel aspect that's the
3 biggest concern?

4 THE COURT: Uh-huh.

5 MR. MATASAR: And can we not -- since the
6 government has not indicated any indication of using
7 this information against the defendant, why not?

8 And Pretrial Services is completely different
9 from the case. There is a statute that I cited to Judge
10 Hogan (sic), it's generally secret.

11 Why can't we have a general understanding that
12 the -- and this is not -- no violent crimes, of course,
13 would be included, nothing like that, but why can't we
14 have a general understanding from the government that
15 this information would simply not be used against
16 Mr. Seda in this case or to prosecute him in any other
17 case?

18 THE COURT: You need to discuss that directly
19 with Mr. Cardani. I'm not going to get involved in
20 that. I know that other cases are different.

21 After this hearing is over, we have a
22 sentencing hearing on a fraud defendant that Mr. Cardani
23 prosecuted, and I'm not worried about him being able to
24 travel in these countries.

25 MR. MATASAR: Point taken, Your Honor.

1 THE COURT: All right. Thank you. We'll take
2 it up again next week.

3 Could I see counsel at the side bar on a
4 different matter.

5 (The proceedings were concluded at 12:41 p.m.)
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CERTIFICATE

I, Deborah Wilhelm, Certified Shorthand Reporter for the State of Oregon, do hereby certify that I was present at and reported in machine shorthand the oral proceedings had in the above-entitled matter. I hereby certify that the foregoing is a true and correct transcript, to the best of my skill and ability, dated this 22nd day of October, 2007.



Deborah Wilhelm
Deborah Wilhelm, RPR
Certified Shorthand Reporter
Certificate No. 00-0363